

DOMESTIC RELATIONS COMMITTEE
MEETING MINUTES – OCTOBER 18, 2002

PRESENT:

Hon. Karen Adam
Rene Bartos
Kat Cooper
Nancy Gray
Hon. Karen Johnson
Jennifer Jordan
Ella Maley
Melita Mulligan-Ferry for Sidney Buckman
Hon. Dale Nielson

Beth Rosenberg
Janet Scheiderer
Ellen Seaborne
Kelly Spence
Steve Wolfson
Daniella Yaloz
Brian Yee
Jeffrey Zimmerman

NOT PRESENT:

Frank Costanzo
Hon. Kathi Foster
Gordon Gunnell
Hon. Mary Hartley
Terrill Haugen

David Norton
Hon. David Petersen
Steve Phinney
Ray Rivas for Alma Jennings Haught
Debbora Woods-Schmitt

GUESTS:

Elizabeth Baskett
Glenn Davis
Paul Geisheker
Barbara Guenther
Marianne Hardy

Kristie Leshinskie
Therese Martin
Susan Pickard
Bill Fabricius

STAFF:

Isabel Gillett
Megan Hunter

CALL MEETING TO ORDER

The meeting was called to order at 10:28 a.m. by Representative Johnson with a quorum present. New member, Beth Rosenberg, was introduced. Ms. Rosenberg was appointed by Senate President Randall Gnant to serve as the representative of a children's advocacy agency.

APPROVAL OF MINUTES

The September 18, 2002 minutes were approved with an amendment to page 4, Court Procedures Workgroup report.

INTEGRATED FAMILY COURT (IFC)

Nancy Gray gave a PowerPoint presentation regarding the IFC proposal. She and other members who have given the same presentation to various court committees provided feedback from those committees, as follows:

- Committee on Impact of Domestic Violence in the Courts
A negative comment (opinion) from one member was received regarding the Maricopa Integrated Family Court pilot project.
Phil Knox from Superior Court in Maricopa County will meet with this group to provide information from Maricopa's experience.
- Committee on Superior Court
Both positive and negative reactions were received; however, approximately two-thirds of the committee reacted in a positive manner to the proposal
- Presiding Judges' Meeting
Most members reacted positively to the proposal

Ellen Seaborne explained that questions and concerns have been expressed regarding whether this is too big of a burden to place on a presiding judge and the 50% rule for counties with only one or just a few judges. The committee may amend the proposal to accommodate these concerns.

Commissioner Adam commented that a copy of the proposal was provided to members of the National Council of Juvenile and Family Court Judges who were completely supportive of our plan.

IFC Funding Issues

Ellen Seaborne explained that Committee leadership previously recommended development of a self-funding mechanism as opposed to requesting a general appropriation. The IFC workgroup worked along this vein, recognizing the need for a funding source that is real and stable; the funding recommendation focuses solely on

increased and new court filing fees. The cases on which new fees would be placed and increased fees would be added affect family court cases, not juvenile cases, as follows:

- New Fees
Paternity – Conciliation \$176
Subsequent filings - \$25
Custody Evaluations - \$500 split between the parties
Mediation - \$150 split between the parties
Mediation No Show - \$300
- Fee Increases
Marriage license fee – from \$50 to \$100
Post-adjudication DR cases – from \$61 to \$150
Child Support Payment Handling Fee – from \$2.25/month to \$3.00/month

As with other fees, parties who do not have sufficient means to pay the filing fees may request a fee deferral or waiver from the court.

The child support payment handling fee increase may conflict with federal law. Ellen will request information from the Child Support Committee of the state legislature at its October 22 meeting where the IFC proposal will be presented.

The combination of new and increased filing fees is expected to generate an estimated \$12 million per year.

Members were polled regarding the funding proposal and provided the following comments, questions and suggestions:

- Investigate placing fees on a sliding scale
- Some mediation no-shows are victims of domestic violence who do not attend the mediation out of fear of the abuser – these victims will be penalized with a \$300 fee – victims should not be charged for not attending mediation
- Child support handling fee should be split between both parties – currently it is assessed against the payor only
- Subsequent filing fees will be assessed on parties who must defend themselves when the opposing party files subsequent pleadings – does not seem fair
- Fees should be assessed at the end of a case
- Will the fees go to conciliation services or to the Integrated Family Court in each county – by statute, monies cannot be taken from Conciliation Court and used in other court areas
- Set parameters on the allocation of IFC monies among the counties
- Concern that courts may order custody evaluations in more cases simply to generate more funds for the court
- Implementing a charge for custody evaluations and mediations will require significant statutory change – the court can order parties to go through a

custody evaluation but the court cannot order them to pay for it under existing law

- Existing law does not allow the court to charge for ADR services – domestic relations judges are frustrated because they do not have money for services such as counseling or mediation – juvenile court has resources and would be resistant to sharing them with domestic relations within the IFC scope
- Fees generated for the IFC should be dedicated funds

Melita Mulligan-Ferry commented that domestic violence screening is taken seriously and highly used in Maricopa County before cases are referred to mediation. She also pointed out that the mediation no-show rate is approximately 10-12% in Maricopa County.

Ellen commented that the IFC proposal leaves existing juvenile funding intact.

Representative Johnson commented that she was impressed with the effort to find funding for the Integrated Family Court and does not anticipate this type of proposal to be a terribly hard sell to the Legislature.

MOTION: Adopt the Integrated Family Court self-funding proposal using the concept of dedicated funds raised from new fees and fee increases, allowing the IFC workgroup to further refine the proposal. The final proposal will be presented to the Domestic Relations Committee on November 6, 2002.

MEMBERS APPROVED THE AMENDED MOTION UNANIMOUSLY.

WORKGROUPS

The workgroups met during the working lunch hour to discuss the IFC funding proposal and reconvened at 1:39 to provide report to the full Committee.

Substantive Law Workgroup:

Jeff Zimmerman reported that the workgroup discussed IFC funding and did not come up with consensus on any but pulled together the following list of ideas:

- Increase marriage license fee in a smaller amount, then increase the initial DR petition and response fees to make up the difference
- IFC workgroup should research when all of these fees were last increased which would help support the increase
- Funds should be dedicated for Integrated Family Court use only; counties should be prevented from tapping into those funds
- Dedicated funds can be swept by the Legislature

- Because it takes a super-majority of the Legislature to pass a funding proposal, the proposal should ask for as much as possible up front
- Initial start-up costs will probably not decrease in future years; funding should be expected to continue annually at or above the initial start-up costs
- Consider grant funding availability to help fund start up costs
- Delete some of the subsequent filing fees (frivolous filings)
- In addition to attorneys' fees and court costs, the court could assess penalty fees that would go into the IFC fund
- Provide new services for which there could be a charge, e.g. children's classes
- Sliding scale idea is worth exploring

Court Procedures:

Dr. Brian Yee reported the following:

- There are statutory limitations to ADR services for which parties are required to pay
- While it is possible to change statutes, the due process issue is insurmountable in terms of having family court send people to services they have to pay for
- Continuation of the practice of judicial rotation is an impediment to the imposition of penalty fees; because it takes so long to see a case through to the end, the judge may rotate off after ruling on a final evidentiary hearing, then the new judge is unaware of repeat filings in the case
- Recognize the good work that some domestic violence judges do

Education/Prevention:

Rene Bartos reported in place of Terrill Haugen. This workgroup met with the other workgroups and their comments were presented by the workgroup chairs.

A final comment from Steve Wolfson focused on informing the citizens of Arizona of the IFC proposal to solicit feedback. The IFC workgroup will discuss and take action on the matter.

CALL TO THE PUBLIC

Paul Geisheker, from the public, commented that the IFC proposal will be extremely costly and informed the committee that he has developed a way to triage family law cases at their inception thereby decreasing litigation.

NEXT MEETING

The November meeting will be held on November 6, 2002, Conference Room 119A/B, Arizona State Courts Building, 1501 W. Washington, Phoenix. Final IFC funding

refinements will be presented and representatives from the Hawaii judiciary will present their children's programs to the Committee.

The December meeting will be held on December 13, 2002, 10:00 a.m. – 2:00 p.m., Judicial Education Center (Silver & Turquoise Rooms), 541 E. Van Buren, Suite B-4, Phoenix.

ADJOURNMENT

Rep. Johnson adjourned the meeting at 2:12 p.m.